

## ***ATTENDANCE AT SCHOOL BASED ON DOMICILE OR RESIDENCY IN THE SCHOOL DISTRICT:***

### ***SAMPLE FORMS, NOTICES AND INFORMATIONAL DOCUMENTS***

The Department of Education has developed the following package of sample forms, notices and informational materials to facilitate implementation of the laws governing a student's right to attend public school based on domicile or residency in a school district. The package is intended to aid in the understanding of the rights and responsibilities of districts, and of persons seeking to enroll students in school, under [N.J.S.A. 18A:38-1](#) and [N.J.A.C. 6A:28-2](#).

Included are:

- Preliminary Information and Registration Form (N.J.A.C. 6A:28-2.6(a))
- Notices of Ineligibility (N.J.A.C. 6A:28-2.7)
- Statement of Compliance with Compulsory Education Law (N.J.A.C. 6A:28-2.6/7)
- Instructions for Commissioner Appeal, including *Pro Se* Form (N.J.A.C. 6A:28-2.9(a))

Use of the registration form and ineligibility notices included in this package is *not* required. HOWEVER, any locally developed registration form MUST include the preliminary information found on pages 2-3, and may NOT request information of the type prohibited by N.J.A.C. 6A:28-2.5(d). Additionally, any locally developed notice of ineligibility MUST comply with the requirements of N.J.A.C. 6A:28-2.7.

<b>PRELIMINARY INFORMATION: PLEASE READ BEFORE PROCEEDING</b>
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**The questions asked in the following pages will enable us to determine your student's eligibility to attend school in this district in accordance with New Jersey law.** *Please be aware that N.J.S.A. 18A:38-1 and N.J.A.C. 6A:28-2 specify that a free public education will be provided to any student between the ages of 5 and 20 who is:*

- Domiciled in the district, i.e., living with a parent or guardian whose permanent home is located within the district. A home is permanent when the parent or guardian intends to return to it when absent and has no present intent of moving from it, notwithstanding the existence of homes or residences elsewhere.
- Living with a person, other than the parent or guardian, who is domiciled in the district and is supporting the student without compensation, as if the student were his or her own child, because the parent cannot support the child due to family or economic hardship.
- Living with a person domiciled in the district, other than the parent or guardian, where the parent/guardian is a member of the New Jersey National Guard or the reserve component of the U.S. armed forces and has been ordered into active military service in the U.S. armed forces in time of war or national emergency.
- Living with a parent or guardian who is temporarily residing in the district
- The child of a parent or guardian who moves to another district as the result of being homeless.
- Placed in the home of a district resident by court order pursuant to *N.J.S.A. 18A:38-2*.
- The child of a parent or guardian who previously resided in the district but is a member of the New Jersey National Guard or the United States reserves and has been ordered to active service in time of war or national emergency pursuant to *N.J.S.A. 18A:38-3(b)*.
- Residing on federal property within the State pursuant to *N.J.S.A. 18A:38-7.7 et seq.*

*Note that the following do **not** affect a student's eligibility to enroll in school:*

- Physical condition of housing or compliance with local housing ordinances or terms of lease.
- Immigration/visa status, except for students holding or seeking a visa (F-1) issued specifically for the purpose of limited study on a tuition basis in a United States public secondary school.
- Absence of a certified copy of birth certificate or other proof of a student's identity, although these must be provided within 30 days of initial enrollment, pursuant to *N.J.S.A. 18A: 36-25.1*.
- Absence of student medical information, although actual attendance at school may be deferred as necessary in compliance with rules regarding immunization of students, *N.J.A.C. 8:57-4.1 et seq.*
- Absence of a student's prior educational record, although the initial educational placement of the student may be subject to revision upon receipt of records or further assessment by the district.

**The following forms of documentation may demonstrate a student's eligibility for enrollment in the district. Particular documentation necessary to demonstrate eligibility under specific provisions in law will be indicated in the appropriate section of the registration form.**

- Property tax bills, deeds, contracts of sale, leases, mortgages, signed letters from landlords and other evidence of property ownership, tenancy or residency.

- Voter registrations, licenses, permits, financial account information, utility bills, delivery receipts, and other evidence of personal attachment to a particular location.
- Court orders, state agency agreements and other evidence of court or agency placements or directives.
- Receipts, bills, cancelled checks and other evidence of expenditures demonstrating personal attachment to a particular location, or, where applicable, to support of the student.
- Medical reports, counselor or social worker assessments, employment documents, benefit statements, and other evidence of circumstances demonstrating, where applicable, family or economic hardship, or temporary residency.
- Affidavits, certifications and sworn attestations pertaining to statutory criteria for school attendance, from the parent, legal guardian, person keeping an “affidavit student,” adult student, person(s) with whom a family is living, or others, as appropriate.
- Documents pertaining to military status and assignment.
- Any business record or document issued by a governmental entity.
- Any other form of documentation relevant to demonstrating entitlement to attend school.

The totality of information and documentation you offer will be considered in evaluating an application, and, unless expressly required by law, the student will not be denied enrollment based on your inability to provide certain form(s) of documentation where other acceptable evidence is presented.

You will *not* be asked for any information or document protected from disclosure by law, or pertaining to criteria which are not legitimate bases for determining eligibility to attend school. You may *voluntarily* disclose any document or information you believe will help establish that the student meets the requirements of law for entitlement to attend school in the district, but *we may not, directly or indirectly, require or request*:

- Income tax returns;
- Documentation or information relating to citizenship or immigration/visa status, unless the student holds or is applying for an F-1 visa;
- Documentation or information relating to compliance with local housing ordinances or conditions of tenancy;
- Social security numbers.

**Please be aware that any initial determination of the student’s eligibility to attend school in this district is subject to more thorough review and subsequent re-evaluation, and that tuition may be assessed in the event that an initially admitted student is later found ineligible. If your student is found ineligible, now or later, you will be provided the reasons for our decision and instructions on how to appeal.**

[Optional note if district permits attendance by nonresidents on a tuition basis: state law allows school districts to admit nonresident students, through policies adopted at board discretion, on a tuition basis. If your student is not eligible to attend school in this district free of charge, he or she may enroll on a tuition basis by ... (*instructions on how to obtain more information, or register for enrollment as a nonresident student.*)]

***If you experience difficulties with the enrollment process, please see (name and phone number/location of administrator) for assistance.***

## **REGISTRATION FORM**

DATE: \_\_\_\_ / \_\_\_\_ / \_\_\_\_  
M D Y

SCHOOL: \_\_\_\_\_

STUDENT: \_\_\_\_\_  
Last Name First Name Middle Initial

AGE: \_\_\_\_\_ DATE OF BIRTH: \_\_\_\_ / \_\_\_\_ / \_\_\_\_  
M D Y

NAME OF PARENT(S)/GUARDIAN: \_\_\_\_\_

PERSON ENROLLING STUDENT: \_\_\_\_\_

RELATIONSHIP TO STUDENT IF OTHER THAN PARENT: \_\_\_\_\_

STUDENT'S PHYSICAL ADDRESS: \_\_\_\_\_

MAILING ADDRESS (IF DIFFERENT): \_\_\_\_\_

HOME TELEPHONE (INCLUDE AREA CODE): \_\_\_\_\_

OTHER PHONE OR FAX (IF ANY): \_\_\_\_\_

PARENT(S)/GUARDIAN'S PHYSICAL ADDRESS: \_\_\_\_\_

MAILING ADDRESS (IF DIFFERENT): \_\_\_\_\_

HOME TELEPHONE (INCLUDE AREA CODE): \_\_\_\_\_

OTHER PHONE OR FAX (IF ANY): \_\_\_\_\_

NATIVE LANGUAGE OF PARENT/GUARDIAN/PERSON ENROLLING STUDENT: \_\_\_\_\_

(If English is not the native language, please check here \_\_\_\_ if English is spoken and understood by the parent/guardian/person enrolling student.)

**To the Person Enrolling the Student:** Please complete the appropriate section A, B, C or D below, according to the situation best matching the student's circumstances:

*Complete **SECTION A (DOMICILE)** if the student is living with a parent or guardian whose permanent home is the address given on page 1 of this application and is located in the district.*

or

*Complete **SECTION B ("AFFIDAVIT" STUDENT)** if the student is living with a person domiciled in the district, other than the parent or guardian.*

or

*Complete **SECTION C (TEMPORARY RESIDENT)** if the student is living with a parent or guardian temporarily residing within the district.*

or

*Complete **SECTION D (SPECIAL CIRCUMSTANCES)** if the student's situation is not addressed by Section A, B or C or if any of the circumstances in Section D apply.*

**SECTION A (DOMICILE):** Complete this section if the student is living with a parent or guardian whose permanent home is the address given on page 1 of this application and is located in the district. If you are the student's guardian, or will be the guardian of a student from out of state following expiration of the required 6-month waiting period, you will be asked to provide official papers proving guardianship. You will not be asked to produce "affidavit student" proofs of the type requested in Section B below.

How long have you lived in this home? \_\_\_\_\_

Do you have any present intention of moving from this home? If so, when and to where?

\_\_\_\_\_

Do you have residences(s) elsewhere, and, if so, where are they and when do you live there? \_\_\_\_\_

\_\_\_\_\_

Please list four forms of proof (see attached list) you will provide to demonstrate that the address given on page 1 of this application is your permanent home.

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

*(Continued on Next Page)*

**SECTION A (DOMICILE) CONTINUED:**

*If the student's parents are domiciled in different districts, regardless of which parent has legal custody, please answer the following questions:*

Is there a court order or written agreement between the parents designating the district for school attendance, and if so, where does it require the student to attend school? (You will be asked to provide a copy of this document.) \_\_\_\_\_

\_\_\_\_\_

Does the student reside with one parent for the entire year? If so, with which parent and at what address? \_\_\_\_\_

\_\_\_\_\_

If not, for what portion of time does the student reside with each parent and at what addresses? \_\_\_\_\_

\_\_\_\_\_

If the student lives with both parents on an equal-time, alternating week/month or other similar basis, with which parent did the student reside on the last school day prior to October 16 preceding the date of this application? \_\_\_\_\_

***Please note:*** No district is required, as a result of being the district of domicile for school attendance purposes where a student lives with more than one parent, to provide transportation for a student residing outside the district for part of the school year, other than transportation based upon the home of the parent domiciled within the district to the extent required by law.

If you are claiming to be an emancipated student, are you living independently in your own permanent home in the district? If yes, please describe the proofs you will provide, in addition to those demonstrating domicile, to demonstrate that you are not in the care and custody of a parent or legal guardian. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

***Please note:*** Under New Jersey law, where a dwelling is located within two or more local school districts, or bears a mailing address that does not reflect the dwelling's physical location within a municipality, the district of domicile for school attendance purposes is that of the municipality to which the resident pays the majority of his or her property tax, or to which the majority of property tax for the dwelling in question is paid by the owner of a multi-unit dwelling.

**END OF SECTION A**

**SECTION B (“AFFIDAVIT” STUDENT):** *Complete this section if the student is living with a person domiciled in the district, other than the parent or guardian.*

Is the person domiciled in the district, supporting the student without remuneration as if the student were his or her own child, keeping the student for a longer time than the school term and assuming all personal obligations for the student relative to school requirements? Please explain. (You will be asked to file a sworn statement, along with a copy of the person’s lease, if a tenant, or a sworn landlord’s statement, if a tenant without written lease.) \_\_\_\_\_

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Students are not eligible to attend school as “affidavit” students unless the student’s parent or guardian is not capable of supporting or providing care for the student due to family or economic hardship, and unless it is clear that the student is not living in the district solely for purposes of receiving a public education there. Please explain the circumstances applicable in this case, with special attention to the parent/guardian’s family and/or economic hardship. (The parent/guardian will be required to file a sworn statement with documentation to support the claims made.) \_\_\_\_\_

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*Please note: A student will not be considered ineligible because required sworn statements(s) cannot be obtained, so long as evidence is presented that the underlying requirements of the law are being met.*

*A student will not be considered ineligible when evidence is presented that the student has no home or possibility of school attendance other than with a non-parent district resident who is acting as the sole caretaker and supporter of the student.*

*A student will not be considered ineligible solely because a parent or guardian provides gifts or limited contributions, financial or otherwise, toward the welfare of the student, provided that the resident keeping the student receives no payment or other remuneration from the parent or guardian for the student’s actual housing and support. Receipt by the resident of social security or other similar benefits on behalf of the student do not render a student ineligible.*

*It is not necessary that legal guardianship or custody be obtained before a student will be considered for enrollment on an “affidavit” basis.*

**END OF SECTION B**

**SECTION C (TEMPORARY RESIDENT):** *Complete this section if the student is living with a parent or guardian temporarily residing within the district, even if the parent has a domicile elsewhere.*

How long have you lived in this residence? \_\_\_\_\_

Do you have a domicile or residences(s) elsewhere, and, if so, where are they and when do you live there? \_\_\_\_\_

Please list four forms of proof (see attached list) you will provide to demonstrate that you are residing at the address given on page 1 of this application, and that such residence is not solely for the purpose of the student attending school in the district.

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

Please note: Under New Jersey law, where a dwelling is located within two or more local school districts, or bears a mailing address that does not reflect the dwelling's physical location within a municipality, the district of domicile for school attendance purposes is that of the municipality to which the resident pays the majority of his or her property tax, or to which the majority of property tax for the dwelling in question is paid by the owner of a multi-unit dwelling.

*If the student's parents are domiciled in different districts, regardless of which parent has legal custody, please answer the following questions:*

Is there a court order or written agreement between the parents designating the district for school attendance, and if so, where does it require the student to attend school? (You will be asked to provide a copy of this document.) \_\_\_\_\_

Does the student reside with one parent for the entire year? If so, with which parent and at what address? \_\_\_\_\_

If not, for what portion of time does the student reside with each parent and at what addresses? \_\_\_\_\_

*(Continued on Next Page)*



**SECTION C (TEMPORARY RESIDENT) CONTINUED:**

If the student lives with both parents on an equal-time, alternating week/month or other similar basis, with which parent did the student reside on the last school day prior to October 16 preceding the date of this application? \_\_\_\_\_

**Please note:** No district is required, as a result of being the district of temporary residence for school attendance purposes where a student lives with more than one parent, to provide transportation for a student residing outside the district for part of the school year, other than transportation based upon the home of the parent residing within the district to the extent required by law.

**END OF SECTION C**

**SECTION D (SPECIAL CIRCUMSTANCES):** *Please indicate if any of the following apply.*

\_\_\_\_\_ The student is the child of a parent or guardian who has moved to another district as the result of being homeless.

\_\_\_\_\_ The student has been placed in the home of a district resident other than the parent or guardian by court order. (You will be required to provide a copy of the order.)

\_\_\_\_\_ The student has been placed in the district by the Division of Youth and Family Services acting as the student's legal guardian.

\_\_\_\_\_ The student is a child of a parent or guardian who previously resided in the district and is a member of the New Jersey National Guard or the United States reserves ordered to active service in time of war or national emergency.

\_\_\_\_\_ The student is kept in the home of a person domiciled in the district, other than the parent or legal guardian, and the parent/guardian a member of the New Jersey National Guard or the reserve component of the United States armed forces and has been ordered into active military service in the United States armed forces in time of war or national emergency. If this applies, when is the parent or guardian expected to return from active military duty? \_\_\_\_\_

\_\_\_\_\_ The student resides on federal property? Where? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ The student's circumstances do not appear to be addressed anywhere in this application. I understand that I will be contacted by (name of administrator or office) for further information.

**END OF SECTION D**

***If you experience difficulties with the enrollment process, please see (name and phone number/location of administrator) for assistance.***

# NOTICE OF DEFECT IN APPLICATION/POTENTIAL INELIGIBILITY

*(To be used in initial assessment upon presentation of student for enrollment)*

DATE: \_\_\_\_\_ SCHOOL: \_\_\_\_\_

STUDENT: \_\_\_\_\_ AGE: \_\_\_\_\_

NAME OF PARENT(S)/GUARDIAN: \_\_\_\_\_

PERSON ENROLLING STUDENT: \_\_\_\_\_

RELATIONSHIP TO STUDENT IF OTHER THAN PARENT: \_\_\_\_\_

Please be advised that, although the above-named student is being accepted for enrollment on a preliminary basis, **the enrollment application you have submitted has defects as noted below. If these defects are not corrected within the specified time, you will be notified that, unless you file an appeal, the student will be removed from school.** If that occurs, you will be provided with information on how to appeal the removal to the Commissioner of Education.

**On or before [DATE], please submit further evidence of:**

*[In each applicable area, briefly specify what is needed.]*

\_\_\_\_\_ Domicile/Residency at address where you claim to live

\_\_\_\_\_ Legal guardianship or custody of student

\_\_\_\_\_ Proof that you are supporting student financially and/or that parents are incapable of caring for student due to family or economic hardship (applies *only* to residents enrolling students of whom they are not parents or legal guardians/custodians)

If you have any questions, please see (*designated administrator*) or call him/her at (*phone number*) between the hours of (*time*). The information requested above should be submitted to (*name*) at (*address*).

## NOTICE OF INITIAL DETERMINATION OF INELIGIBILITY

*(To be used after more thorough review of applications for enrollment or review of currently enrolled students)  
(In English and Native Language of Applicant)*

DATE: \_\_\_\_\_ SCHOOL: \_\_\_\_\_

STUDENT: \_\_\_\_\_ AGE: \_\_\_\_\_

NAME OF PARENT(S)/GUARDIAN: \_\_\_\_\_

PERSON ENROLLING STUDENT: \_\_\_\_\_

RELATIONSHIP TO STUDENT IF OTHER THAN PARENT: \_\_\_\_\_

**Our review of the domicile/residency status of the above-named student indicates that the student is not entitled to a free education in the district for the reason(s) indicated below:**

\_\_\_\_\_ Domicile/Residency not in the district because:

\_\_\_\_\_ Insufficient proof that you are supporting student financially and/or that parents are incapable of caring for student due to family or economic hardship because: *(Applies only to residents enrolling students of whom they are not parents or legal guardians/custodians)*

\_\_\_\_\_ Other:

**If you accept these reasons**, the student will be removed from school in this district and you are advised that state compulsory education law requires you to ensure that any student between the ages of 6 and 16 is enrolled in public or private school or receives instruction elsewhere than at a school (home schooling). In the absence of your written indication that the student will be receiving education in compliance with that law, we will contact the school district of your domicile or residence, or an appropriate social service agency, to provide the student's name and your name/address, so as to ensure that the student receives an education as required by law.

**If you do *not* accept these reasons**, you may request a hearing before the Board of Education and the student will be permitted to continue in school until the board makes its determination following the hearing. At the hearing, you may present additional evidence in support of your claim, and the board will notify you in writing of its final determination. If the board finds the student ineligible, you will be given information on how to appeal the board's decision to the Commissioner of Education and advised of your rights and responsibilities with regard to the student's continued attendance at school, as well as of the possibility of tuition assessment.

**On or before *(date)***, please contact ***(designated administrator)*** at ***(phone number)*** between the hours of ***(time)*** to indicate whether the student will be removed from school and educated elsewhere, or whether you will be requesting a hearing before the board to demonstrate that the student is entitled to attend school in this district. **If we do not hear from you, the student will be removed and contact will be made to ensure compliance with compulsory education law as indicated above.**

Attachment: Statement of Compliance with Compulsory Education Law

# NOTICE OF FINAL INELIGIBILITY

*(In English and Native Language of Applicant)*

Date

**Applicant**

**Address where s/he claims to reside**

Dear :

We have carefully reviewed the application for enrollment of *(student's name)* in the *(name)* School District, as well as all information submitted in support of the application, and have determined that *(student)* is ineligible to attend the schools of the district.

We have made this determination based on the following:

*[Here state the specific basis on which the determination of ineligibility was made, sufficient to allow the applicant to understand the reasons for the district's decision and determine whether appeal is appropriate. Include a reference to the specific section of N.J.S.A. 18A:38-1 under which the application was decided, for example, 18A:38-1(a), domicile, or 18A:38-1(b), "affidavit" status.]*

*For example: An inspection of the apartment where you claim to be domiciled has revealed that your wife and children do not live there, and that you use the apartment only occasionally. Instead, we have determined that your family is, in fact, domiciled in Smith Town, where you own a home, are registered to vote, and were observed on several mornings leaving the house with your children to drive them to school in our district. Therefore, we have concluded that, in accordance with N.J.S.A. 18A:38-1(a), your children are entitled to attend school in the Smith School District, not the (Name) School District.*

*Another example: The information you have provided indicates that, although your niece is living with you, she is being supported by her parents, who pay for her food, clothing, medical care and incidental expenses. Therefore, she does not meet the standard established by N.J.S.A. 18A:38-1(b) for eligibility of students not living with parents or guardians to attend school in our district, since you are not supporting her gratis as if she were your own child. Instead, it appears that she should be attending school in the Smith School District, where her parents reside.*

If you believe the district's determination is in error, you have the right to appeal it to the Commissioner of Education within 21 days of the date of this notice. *(Student)* will be permitted to attend school during this period, and to continue in attendance while the appeal is pending before the Commissioner. However, if no appeal is filed by the 21<sup>st</sup> day following the date of this notice, *(student)* will be removed from school, you will be asked to indicate where s/he will be educated (see below) and we may assess you tuition at the rate of *(rate calculated pursuant to N.J.A.C. 6A:28- 2.10)* for each day *(name)* attended school during this period. Information on how to appeal to the Commissioner is included with this letter.

Please be aware that, if you appeal to the Commissioner but do not succeed in your claim, or if you abandon your appeal through withdrawal, failure to prosecute or any means other than settlement with the district, you may be assessed tuition for any period of (student's) ineligible attendance, including the initial 21-day filing period and the period during which the appeal was pending before the Commissioner. The Commissioner assesses such tuition, which will be calculated at the approximate rate of (rate calculated pursuant to N.J.A.C. 6A:28- 2.10), through an order enforceable against you in Superior Court.

*[If applicable, describe any discretionary policy the district may have that would permit continued attendance, with or without tuition, for students who move from the district but wish to remain for the school year or longer, and provide information on how to make arrangements for such attendance).]*

If you do not intend to appeal the district's determination, please advise (appropriate office or administrator) as soon as possible, but in no event later than 21 days from the date of this notice, so that (student's) removal can be effectuated promptly and arrangements can be made for his/her education elsewhere. State statute on compulsory education requires you to ensure that any student who is between the ages of 6 and 16 is enrolled in a public or private school or receives instruction elsewhere than at a school. Therefore, unless you indicate to us by returning the form below that (student) will be receiving an education, we will contact the school district of your actual domicile or residence, or an appropriate social service agency, with (student's) name and your name and address, in order to ensure compliance with the law.

If you have any questions about this notice, please see (designated administrator) or call him/her at (phone number) between the hours of (time). We anticipate hearing from you regarding either (student's) removal and education elsewhere, or your intent to appeal the board's determination of ineligibility to the Commissioner of Education.

Sincerely yours,

*[Signature]*

Chief School Administrator

Attachments: Appeal Form with Instruction Sheet  
Statement of Compliance with Compulsory Education Law

## STATEMENT OF COMPLIANCE WITH COMPULSORY EDUCATION LAW

My student, \_\_\_\_\_ (*Name*), is being denied enrollment in the \_\_\_\_\_ (*Name*) School District because it has been determined that s/he is not entitled to attend the schools of the district free of charge pursuant to *N.J.S.A.* 18A:38-1. I understand that state compulsory education law, *N.J.S.A.* 18A:38-25, requires me to enroll this student, who is between the ages of 6 and 16, in another public or private school, or to ensure that the s/he receives instruction elsewhere (home schooling). I understand that, in the absence of my indication below that the student will be receiving education in compliance with that law, the \_\_\_\_\_ (*Name*) School District will contact the school district of my apparent actual domicile or residence, or an appropriate social service agency, in order to ensure compliance with compulsory education law.

The student for whom enrollment has been denied will now be:

\_\_\_\_\_ Attending another public school as follows: \_\_\_\_\_

\_\_\_\_\_ Attending private school

\_\_\_\_\_ Receiving instruction elsewhere than at a school (home schooling)

Print Name: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

## DIRECTIONS FOR APPEALING A LOCAL BOARD'S RESIDENCY DETERMINATION TO THE COMMISSIONER OF EDUCATION

Statute provides for appeals of school district residency determinations to be filed within **21 days of the date of the district's decision**.<sup>\*</sup> Therefore, time is of the essence and persons seeking to appeal should, if necessary, receive assistance from their county offices of education. Please note that where appeal is taken from a determination of ineligibility under *N.J.S.A. 18A:38-1(b)1* ("affidavit" students), such appeal shall be filed by the resident making the claim of entitlement, not by the parent or legal guardian.

**There are two ways in which a parent/guardian/resident/adult student may file an appeal with the Commissioner: 1) He/she may submit a standard Petition of Appeal** in accordance with *N.J.A.C. 6A:3-1.3* and *1.4*, **or 2) in the case of a petitioner acting without legal representation ("pro se"), he/she may instead submit a letter petition** in accordance with *N.J.A.C. 6A:3-8.1*. Both methods of filing are described below. In either case, petitioners should be aware that they are initiating an agency hearing procedure where they, or their counsel, will most likely be required to present testimony and evidence in support of their claim before a judge of the Office of Administrative Law (OAL). For more information about this process, petitioners are urged to visit the OAL website at <http://www.state.nj.us/oal/hearings.html>.

### STANDARD PETITION OF APPEAL (N.J.A.C. 6A:3-1.3 and 1.4)

The regulations for filing Petitions of Appeal may be obtained at a library, the local school district, the county office of education, the Department of Education's web site (at <http://www.state.nj.us/njded/code/title6a/chap3/>) or by mail from the Bureau of Controversies and Disputes (609-292-5705).

A standard Petition of Appeal includes: 1) The **petition** itself; 2) a **verification** and 3) **proof that petitioner has served the respondent** (Board of Education) with a copy of the Petition of Appeal.

**Petition:** A petition is a written document, submitted in original with two copies, including the following:

- a. Name, address, telephone number and fax number, if available, of the petitioner;
- b. Name and address of the respondent (Board of Education);
- c. Petitioner's allegations and specific facts supporting them;
- d. Signature of the petitioner, or his/her attorney; and
- e. Date when the petition is prepared.

**Verification:** A petition must verify the facts alleged. This means that the petitioner must write or type the statement contained in *N.J.A.C. 6A:3-1.4* indicating that he/she, as petitioner, attests that the facts contained in the petition are true to the best of his/her knowledge. He/she must then sign the statement and have it notarized.

**Proof of Service:** A copy of the petition must be served upon each respondent (*N.J.A.C. 6A:3-1.3*). In the case of residency disputes, the board of education will be served. A copy should be submitted to the office of the board secretary, or the board's attorney, if known. *The petitioner should also submit to the Bureau of Controversies and Disputes, with the Petition of Appeal, proof that respondent was served.* That proof may be:

- a. An acknowledgment of service (a "receipt") signed by the attorney for the respondent (Board), or signed and acknowledged by the respondent (Board) or its agent (e.g. the Board Secretary) indicating the address at which the respondent was served;
- b. A sworn affidavit of the person making service (mailing or delivering the petition), indicating the address at which the respondent was served;

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<sup>\*</sup> Where an appeal is filed within 21 days of the date of the district's decision, *N.J.S.A. 18A:38-1* provides that no child shall be denied admission during the pendency of the proceedings before the Commissioner. The child shall not be removed from school during the 21-day period in which the interested party may contest the district's decision. However, if in the judgment of the Commissioner the evidence does not support the claim of the petitioner, or if the appeal is withdrawn or abandoned, the Commissioner the petitioner may be assessed tuition for the student prorated to the time of the student's ineligible attendance in the school district. Appeals may be filed after expiration of the 21-day period, but the student's right to attend school during the pendency of the appeal is not guaranteed by operation of statute and the petitioner must submit an application for emergent relief in accord with *N.J.A.C. 6A:3-1.6*.

- c. A certificate of service signed by the attorney making service (mailing or delivering the petition) indicating the address at which the respondent was served;
- d. A copy of petitioner's receipt for certified mailing to respondent. The return receipt (green card) is not required for proof of service.

**An original and two copies of a standard Petition of Appeal must be submitted to the address in the box below. The Bureau of Controversies and Disputes will acknowledge the petition in writing.**

**LETTER PETITION (N.J.A.C. 6A:3-8.1)**

Petitioners who are *not* represented by an attorney ("*pro se*") may submit a letter petition, instead of the standard Petition of Appeal as described above, *provided that the letter contains the following information:*

- a. Petitioner's name, address, telephone number, and fax number where available;
- b. The name of the respondent board of education;
- c. A clear indication that the party is appealing a determination of ineligibility to attend school in the district based on residency or domicile, identifying the date of the district's decision, and including, where possible, a copy of the district's written determination of ineligibility; and
- d. A signed statement that the petitioning party's claim of entitlement is based upon facts which are true to the best of petitioner's knowledge and belief.

*Please Note: Sample letter petition forms are available from your school district or the Office of the County Superintendent.*

Appeals from *pro se* petitioners need not be submitted in triplicate or served upon the respondent district board of education. While *pro se* petitioners *may* serve their petitions on the board, **they may also effectuate service through the Bureau of Controversies and Disputes.** Upon receipt of any *pro se* residency appeal which has not been served on the board, the bureau will transmit a copy of the letter petition to the board via fax, together with notice of the board's obligation to answer the letter petition pursuant to N.J.A.C. 6A:3-1.5, and to effectuate, as required by N.J.S.A. 18A:38-1, the attendance of petitioner's child(ren) pending the outcome of the appeal.

**Letter petitions must be submitted to the address in the box below. The Bureau of Controversies and Disputes will acknowledge the petition in writing.**

\* \* \* \* \*

**ALL PETITIONS SHOULD BE SUBMITTED TO:**

**Commissioner of Education  
c/o Director of the Bureau of Controversies and Disputes  
New Jersey State Department of Education  
P.O. Box 500  
Trenton, NJ 08625-0500**

**A petition may be faxed, with hard copy following by mail, to 609-292-4333.**

Following submission of a proper petition, the board will be required to file an answer and, in most cases, the next step will be a hearing before a judge at the Office of Administrative Law, leading to an initial decision containing the judge's recommended findings of fact and conclusions of law. The Commissioner will then review the matter and issue a final decision, which may be appealed to the State Board of Education, and thereafter to the courts.

**Please Note: These instructions do not constitute legal advice, nor are they meant to take the place of applicable statute or regulation, which should be consulted by petitioners and will take precedence over these instructions if procedural issues arise in any appeal. These instructions are intended solely as an aid to preparation and submission of an appeal petition.**

Prepared by  
New Jersey State Department of Education  
Bureau of Controversies and Disputes



**PRO SE RESIDENCY APPEAL:**  
**N.J.S.A. 18A:38-1/N.J.A.C. 6A:3-8.1/N.J.A.C. 6A:28-1.1 et seq.**

To: Commissioner of Education  
c/o Director, Bureau of Controversies and Disputes  
New Jersey State Department of Education  
100 Riverview Plaza  
P.O. Box 500  
Trenton, NJ 08625

Fax: (609) 292-4333

Dear Commissioner: **(Please Print or Type)**

1. My name is \_\_\_\_\_.

2. My address is: \_\_\_\_\_  
Number Street Town/City Zip Code

3. My phone number is (\_\_\_\_\_) \_\_\_\_\_  
Area Code Number Fax If Available

4. The \_\_\_\_\_ School District located  
in \_\_\_\_\_  
Town/City County

will not allow the following child/ren, who reside with me, to attend school under *N.J.S.A. 18A:38-1*. List name(s) of child/ren and your relationship to them (i.e., parent, legal guardian, other).

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5. Give a brief explanation of why attendance is being denied, including date of district's decision. Please attach, if possible, a copy of district's written determination. (Additional sheets may be used.)

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6. With this letter, I am appealing the district's decision. My claim of entitlement is based upon facts which are true to the best of my knowledge. I understand that if the Commissioner determines the child/ren to be ineligible for a free education in this district, or finds that I have abandoned or withdrawn this appeal, I may be assessed tuition costs for the period of the child/ren's ineligible attendance.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date